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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,346	02/19/2002	Akira Takano	F05-138810M/ARK	1374

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,346

Applicant(s)

Takano et al.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 26, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 7-9, and 13-20 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6, and 10-12 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitations "a blower unit" in line 3 and "a vehicle body" in line 5.

There is insufficient antecedent basis for these limitations in the claim.

Claim 16 recites the limitation "the blower unit" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "a vehicle body" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the blower unit" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1, 5, 7, 13-15, and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Derleth et al.

For claims 1 and 7, Derleth et al. disclose a blower unit mounting structure (as seen in the figures) comprising: an instrument panel 10 including an upper panel 60 and a lower panel 98 that are vertically divided along a transverse direction of a vehicle body; and at least a steering support beam 72 and a blower unit 20 assembled to the lower panel to form a unitized component, wherein the unitized component is mounted on the vehicle body.

The limitation that the unitized component is mounted on the vehicle body "before the upper panel is mounted on the vehicle body" is a process limitation. It should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

For claims 5 and 15, Derleth et al. disclose a method for mounting blower unit comprising: preparing an instrument panel 10 including an upper panel 60 and a lower panel 98 that are vertically divided along a transverse direction of a vehicle body; forming a unitized component by

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assembling at least a steering support beam 72 and a blower unit 20 to the lower panel; and mounting the unitized component and the upper panel on the vehicle body.

5. Claims 1-2, 5, 7-8, and 13-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindberg et al.

For claims 1 and 7, Lindberg et al. disclose a blower unit mounting structure (as seen in the figures) comprising: an instrument panel 30 including an upper panel 248 (Figure 13) and a lower panel, generally 256, 258 (Figure 13) that are vertically divided along a transverse direction of a vehicle body; and at least a steering support beam 50 and a blower unit 56 assembled to the lower panel to form a unitized component, wherein the unitized component is mounted on the vehicle body.

The limitation that the unitized component is mounted on the vehicle body “before the upper panel is mounted on the vehicle body” is a process limitation. It should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

Lindberg et al. further comprises a front bulkhead 40 including a vertical wall surface with an opening 86, wherein a duct of the blower unit is connected to the opening for taking outside air into the blower unit.

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For claims 5 and 15, Lindberg et al. disclose a method for mounting blower unit comprising: preparing an instrument panel 30 including an upper panel 248 and a lower panel, generally 256, 258 (Figure 13) that are vertically divided along a transverse direction of a vehicle body; forming a unitized component by assembling at least a steering support beam 50 and a blower unit 56 to the lower panel; and mounting the unitized component and the upper panel on the vehicle body.

6. Claims 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by ^{Lorenz}~~Lindberg~~ et al.

For claim 7, Lorenz et al. disclose a blower unit mounting structure comprising: an instrument panel 1 including an upper panel 2, 4, 5 and a lower panel 3 that are vertically divided along a transverse direction of a vehicle body; and at least a steering support beam 43 and a blower unit 17 assembled to the lower panel to form a unitized component, wherein the unitized component is mounted on the vehicle body. Lorenz et al. further comprises a toe board 75 having a recessed portion 76, 77.

Allowable Subject Matter

7. The indicated allowability of claims 1-6 is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) are stated above.

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8. Claims 3-4, 6, and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the claim have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other blower unit mounting structures similar to that of the current invention.

12. Any inquiry concerning this communication from the examiner should be directed to Hilary L. Gutman whose telephone number is (703) 305-0496.

13. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents
Washington, D.C. 20231

or faxed to: (703) 305-3597, (for formal communications intended for entry)
or: (703) 305-0285, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").



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hlg
3/27/03